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EXAMINER

ROSEN, NICHOLAS D

ART UNIT

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/737,874

Applicant(s)

KORITZINSKY ET AL.

Examiner

Nicholas D. Rosen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 December 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14,23-28 and 41-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14,23-28 and 41-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other:

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Claims 1-14, 23-28, and 41-58 have been examined.

### ***Specification***

The disclosure is objected to because of the following informalities: On page 23, lines 5 and 6, reference is made to a "service center telephone directory button 218." This is not found in the drawings, and surely not in Figure 8. Furthermore, even if the feature were present, it could not be assigned the element number 218, since this is the number of the "system reports page" shown in Figure 9 (page 23, line 11).

Appropriate correction is required. Correction may be made to the specification, the drawings, or both.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**Claims 46-50**

Claims 46-50 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,272,469. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 46 of the instant application recites, in essence, a system for carrying out the method of claim 1 of the '469 patent. Likewise, claims 48-50 of the instant application are parallel to claims 2-4, respectively, of the '469 patent. Claim 47 of the instant application is rejected because it depends on claim 46.

**Claims 1-14**

Claims 1-14 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 59-64 and 67 of copending Application No. 09/476,708. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 and 3 of the instant application recite, in essence, the limitations of claim 59 of the '708 application, without any new limitations. Claim 2 of the instant application adds the same limitation as claim 64 of the '708 application. Claim 4 of the instant application adds, in essence, the limitations of claim 62 of the '708 application. Claim 5 of the instant application adds, in essence, the limitations of claim 61 of the '708 application. Claim 6 of the instant application adds, in essence, the limitations of claims 59 and 60 of the '708 application. Claim 7 of the instant application is rejected as depending on claims 1 and 6. Claim 8 of the instant application adds, in essence, the limitations of claim 63 of the '708 application. Claim 9 of the instant application is rejected as depending on claim 1.

Claim 10 of the instant application is rejected as depending on claim 1. Claim 11 of the instant application is rejected as depending on claim 1. Claim 12 of the instant application is rejected as depending on claim 1. Claim 13 of the instant application is rejected as depending on claim 1. Claim 14 of the instant application adds the same limitation as claim 67 of the '708 application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

#### **Claims 41-45**

Claims 41-45 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 69-72 of copending Application No. 09/476,708. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 41 of the instant application recites, in essence, the same limitations as claim 69 of the '708 application, adding nothing new. Claim 42 of the instant application adds the same limitations as claim 70 of the '708 application. Claim 43 of the instant application adds the same limitations as claim 71 of the '708 application. Claim 44 of the instant application adds the same limitations as claim 72 of the '708 application. Claim 45 of the instant application is rejected as depending on claim 41.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 10, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Wood et al. (U.S. Patent 5,891,035). As per claim 1, Wood discloses a method for providing operational protocols to medical diagnostic systems, the method comprising the steps of storing a protocol on a machine readable medium (column 2, lines 8-19 and 30-49; column 7, lines 1-43); displaying user viewable indicia descriptive of the protocol at a medical diagnostic location (column 2, lines 8-19 and 30-49; column 7, line 1, through column 8, line 4); selecting the protocol via a user interface (Figure 3; column 7, line 1, through column 8, line 4); and loading the protocol at the medical diagnostic location from the machine readable medium (Figure 3; column 7, line 1, through column 8, line 4).

As per claim 10, Wood discloses transferring at least one configuration parameter based upon the protocol to a scanner controller for execution of the protocol (column 7, lines 34-58; Figure 3).

As per claim 11, Wood discloses that the machine readable medium includes a memory device remote from the medical diagnostic location (column 2, lines 8-19 and 30-49; column 6, line 15, through column 7, line 33).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 2-9 and 12-14**

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) as applied to claim 1 above, and further in view of official notice. Wood does not expressly disclose that the user viewable indicia include a

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textual description of the protocol, although Wood's words at column 7, lines 27-33, and column 7, line 59, through column 8, line 4 are quite suggestive. It appears improbable that a user of Wood's system would download a protocol new to the user with no textual description of the protocol; even in the case of a protocol familiar to the user, a textual description would be helpful for identifying the protocol, distinguishing it from other available protocols, and reminding the user exactly what it did. In any event, official notice is taken that it is well known for indicia to include textual descriptions of programs or products (e.g., catalog entries). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the user viewable indicia include a textual description of the protocol, for the obvious advantage of enabling the user to conveniently acquire information about the protocol.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) as applied to claim 1 above. Wood does not expressly disclose that the user viewable indicia include an exemplary image obtainable via the protocol, but Wood does disclose exemplary images obtainable via the diagnostic system, and presumably via the protocol (column 7, lines 1-9; column 8, lines 5-13; column 9, line 67, through column 10, line 43). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention for the user viewable indicia to include an exemplary image obtainable via the protocol, for the stated advantages of aid in making a diagnosis from images obtained by the diagnostic system, and training new diagnostic system users, and for the obvious advantage of demonstrating what the protocol can do.



Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) as applied to claim 1 above, and further in view of Wyman (U.S. Patent 5,260,999). As per claim 4, Wood does not disclose verifying a subscription status for the diagnostic location prior to loading the protocol, but Wyman teaches verifying a subscription status of a site seeking to use a program (column 6, line 43, through column 7, line 40). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to verify a subscription status for the diagnostic location prior to loading the protocol, for the obvious advantages of avoiding providing protocols to users who have not paid for subscriptions, and checking protocols downloaded against subscribers, particularly in the case of what Wyman terms a consumptive style, where a subscription allows only a limited number of downloads.

As per claim 5, Wyman teaches transmitting an authorization prompt to the site based upon the verification of subscription status (column 6, line 43, through column 7, line 2). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to transmit an authorization prompt to the medical diagnostic location based upon the verification of the subscription status, for the obvious advantage of enabling the loading of the protocol to be confirmed as authorized, and thus to take place.

Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood and Wyman as applied to claim 4 above, and further in view of official notice. As per claim 6, Wood does not expressly disclose storing record data indicative of the

selection and loading of the protocol, but official notice is taken that it is well known to store record data. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to store record data indicative of the selection and loading of the protocol, for such obvious advantages as confirming what protocol had been used, whether the protocol had been fully loaded, and resolving any disputes regarding payment for the protocol.

As per claim 8, Wyman teaches that subscriptions are time-expiring subscriptions (column 27, lines 4-11; note also references to "duration" in Abstract and column 7, lines 3-40). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention for the record data to include data representative of a time-expiring subscription, for the obvious advantage of avoiding the unwanted giveaway of protocols for which a subscription had expired.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood, Wyman, and official notice as applied to claim 6 above, and further in view of Reeder (U.S. Patent 5,852,812). Wood does not disclose that record data includes financial record data for invoicing the medical diagnostic location for the protocol, but Reeder teaches storing financial record data for invoicing a user for transactions, such as downloading a file (column 14, lines 27-42). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the record data include financial record data for invoicing the medical diagnostic location for the protocol, for the stated advantage of billing for file downloading.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) as applied to claim 1 above, and further in view of official notice. Wood does not expressly disclose that selecting the protocol includes selecting a graphical interface device of an on-screen menu, but official notice is taken that selecting icons, etc., from on-screen menus is well known. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the step of selecting the protocol include selecting a graphical interface device of an on-screen menu, for the obvious advantage of enabling users to select a protocol in a standard way, likely to be familiar and easily understandable to many users.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) as applied to claim 1 above, and further in view of official notice. Wood does not expressly disclose accessing product configuration data representative of a hardware or software configuration of a medical diagnostic system, and displaying the indicia based on the configuration data. However, Wood discloses accessing product configuration data controlling the hardware or software configuration of a medical diagnostic system (column 2, lines 8-19 and 30-49; column 7, line 1-58), and discloses a user choosing configuration data (column 7, lines 1-58). Official notice is taken that it is well known to display indicia based on data (e.g., information in a catalog or products, or icons, titles, etc. on a computer screen indicating what data is in which files). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to display indicia based upon the configuration data, for the obvious advantage of telling users which files, etc., contain which configuration data.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) as applied to claim 1 above, and further in view of Narayanaswami et al. (U.S. Patent 6,504,571). Wood does not disclose that the indicia are sortable by image parameters, but Narayanaswami teaches sorting by image parameters (Abstract; column 1, line 7, through column 2, line 6). Hence it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the indicia be sortable by image parameters, for the obvious advantage of aiding a user in finding images relevant to his current needs.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) as applied to claim 1 above. Wood does not quite expressly disclose that the protocol includes data for filming, viewing, reconstructing or processing images reconstructed from image data, but this is implied by Wood's disclosure of image transmission (column 7, lines 1-9; column 8, lines 5-23). Without means for reconstructing and viewing the image data, it is difficult to understand the purpose of transmitting image data.

#### **Claims 23-28**

Claims 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) in view of official notice. As per claim 23, Wood discloses a method for providing an operational protocol for a medical diagnostic system. The method comprising the steps of: storing the protocol on a machine readable medium (column 2, lines 8-19 and 30-49; column 7, lines 1-43); selecting a protocol (column 7, line 1, through column 8, line 4; Figure 3); and transmitting data

defining at least one operational parameter from the machine readable medium to a system controller for execution of the protocol (column 7, lines 34-58; Figure 3). Wood does not expressly disclose displaying indicia descriptive of the protocol in a protocol menu of a user interface, or selecting the protocol from the menu. However, official notice is taken that menus in user interfaces are well known, and that displaying indicia descriptive of a product, program, or file is well known. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to display indicia descriptive of the protocol in a protocol menu of a user interface, and select the protocol from the menu, for the obvious advantage of enabling users to conveniently obtain information about protocols, and select a desired protocol, by common, well-known means likely to be familiar to users.

As per claim 24, Wood does not expressly disclose that the indicia include a textual description of the protocol, although Wood's words at column 7, lines 27-33, and column 7, line 59, through column 8, line 4 are quite suggestive. It appears improbable that a user of Wood's system would download a protocol new to the user with no textual description of the protocol; even in the case of a protocol familiar to the user, a textual description would be helpful for identifying the protocol, distinguishing it from other available protocols, and reminding the user exactly what it did. In any event, official notice is taken that it is well known for indicia to include textual descriptions of programs or products (e.g., catalog entries). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the indicia include a

textual description of the protocol, for the obvious advantage of enabling the user to conveniently acquire information about the protocol.

As per claim 25, Wood does not expressly disclose that the indicia include an exemplary image obtainable through execution of the protocol, but Wood does disclose exemplary images obtainable through the diagnostic system, and presumably through execution of the protocol (column 7, lines 1-9; column 8, lines 5-13; column 9, line 67, through column 10, line 43). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention for the indicia to include an exemplary image obtainable through execution of the protocol, for the stated advantages of aid in making a diagnosis from images obtained by the diagnostic system, and training new diagnostic system users, and for the obvious advantage of demonstrating what the protocol can do.

As per claim 26, Wood does not expressly disclose that the step of selecting includes actuation of a graphical button on an on-screen display, but official notice is taken that it is well known to make selections by actuating a graphical button on an on-screen display. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the step of selecting include actuation of a graphical button on an on-screen display, for the obvious advantage of enabling users to select a protocol conveniently by common, well-known means likely to be familiar to users.

As per claim 27, Wood discloses an establishing a network link between the diagnostic system and a remote service facility (Figures 1 and 2; column 4, line 66,

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through column 4, line 38). Wood does not expressly disclose transferring a description of the protocol from the service facility to the diagnostic system for display in the menu, but official notice is taken that it is well known to transfer descriptions of products, programs, or files for display. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to transfer a description of the protocol from the service facility to the diagnostic system for display in the menu, for the obvious advantage of conveniently enabling a user to learn the features of the protocols before selecting an appropriate protocol.

As per claim 28, Wood discloses an establishing a network link between the diagnostic system and a remote service facility (Figures 1 and 2; column 4, line 66, through column 6, line 38), and discloses transferring data defining the protocol from the service facility to the diagnostic system (column 7, lines 1-52). Wood does not expressly disclose transferring data defining the protocol from the service facility to the diagnostic system in response to selection of the protocol from the menu, but official notice is taken that it is well known to transfer data, etc., in response to selection from a menu. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to transfer data defining the protocol from the service facility to the diagnostic system in response to selection of the protocol from the menu, for the obvious advantage of conveniently enabling users to obtain the data, using standard features likely to be familiar to users.

**Claims 41-45**

Claims 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) in view of official notice. As per claim 41, Wood discloses a method for obtaining an operational protocol in a medical diagnostic system, the method comprising the steps of establishing a network link with a remote protocol library (Figures 1 and 2; column 4, line 66, through column 6, line 38); accessing data from the protocol library defining the desired protocol (column 7, lines 1-46); and transmitting the data from the library to the diagnostic system (column 7, lines 1-46). Wood does not expressly disclose viewing a protocol list on a user interface at the medical diagnostic system; and selecting a desired protocol from the list. However, Wood does disclose selecting a desired protocol (column 7, line 1, through column 8, line 4), and official notice is taken that it is well known to view lists of items on a user interface, and select a desired item from a list. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to view a protocol list on a user interface at the medical diagnostic system, and to select a desired protocol from the list, for the obvious advantage of enabling the user to select a desired protocol in a convenient way likely to be familiar to users.

As per claim 43, Wood does not disclose transmitting data descriptive of the protocol to the medical diagnostic system for addition to the protocol list, but does disclose the user selecting a protocol (column 7, line 1, through column 8, line 4), from which the availability of data describing the protocols is held to be obvious. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to transmit descriptive of the protocol to the medical diagnostic system for



addition to the protocol list, for the obvious advantage of making it practical for users to know that the protocol was available, and what the protocol was good for.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood and official notice as applied to claim 41 above, and further in view of the admitted prior art. Wood contains no indication that the protocol list includes protocols for anything except a modality of the medical diagnostic system (ultrasound), from which it is held to be obvious for the protocol list to include only protocols for a modality of the medical diagnostic system. Wood does not disclose that the library includes protocols for a plurality of diagnostic system modalities, but it is admitted prior art that there are a plurality of diagnostic system modalities with respective protocols (the instant application, page 1, line 22, through page 2, line 25). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention for the library to include protocols for a plurality of diagnostic system modalities, for the obvious advantage of enabling users of a plurality of diagnostic systems to obtain suitable protocols.

Claims 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood and official notice as applied to claim 41 above, and further in view of Reeder (U.S. Patent 5,852,812). As per claim 44, Wood does not disclose authorizing a fee for the protocol, but Reeder teaches charging a fee for downloading a file (column 14, lines 25-42), from which authorizing a fee is held to be obvious, since attempting to charge people fees which they have in no way authorized would in many cases lead to complaints, refusal to pay, and possible litigation or prosecution. Hence, it would have

been obvious to one of ordinary skill in the art at the time of applicant's invention to authorize a fee for the protocol, for the obvious advantage of collecting fees without these difficulties.

As per claim 45, Reeder discloses updating a fee file (column 14, lines 25-42). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to update a fee file in response to authorization of the fee, for the obvious advantage of billing users fully for their downloading of protocols.

#### **Claims 51-58**

Claims 51, 52, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035). As per claim 51, Wood discloses a method for providing an operational protocol for a medical diagnostic system, the method comprising the step of: storing the protocol on a machine readable medium (column 2, lines 8-19 and 30-49; column 7, lines 1-43\*). Wood does not expressly disclose transmitting a description of the protocol to a medical diagnostic system; and displaying the description of the protocol at the medical diagnostic system. However, Wood discloses transmitting the protocol to a medical diagnostic system (column 7, lines 1-58), and discloses the user selecting appropriate protocols (column 7, line 1, through column 8, line 4). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to transmit a description of the protocol to a medical diagnostic system and display the description of the protocol at the medical diagnostic system, for the obvious advantage of enabling the user to know that the protocol was available, and what the protocol was good for.

As per claim 52, Wood discloses transmitting data defining at least one operational parameter from the machine readable medium to a system controller for execution of the protocol (column 7, lines 34-58; Figure 3).

As per claim 58, Wood discloses an establishing a network link between the diagnostic system and a remote service facility (Figures 1 and 2; column 4, line 66, through column 6, line 38), and discloses transferring data defining the protocol from the service facility to the diagnostic system in response to selection of the protocol at the diagnostic system (column 7, lines 1-52).

Claims 53-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood as applied to claim 51 above, and further in view of official notice. As per claim 53, Wood does not expressly disclose that the description includes a textual description of the protocol, although Wood's words at column 7, lines 27-33, and column 7, line 59, through column 8, line 4 are quite suggestive. It appears improbable that a user of Wood's system would download a protocol new to the user with no textual description of the protocol; even in the case of a protocol familiar to the user, a textual description would be helpful for identifying the protocol, distinguishing it from other available protocols, and reminding the user exactly what it did. In any event, official notice is taken that it is well known for descriptions to include textual descriptions of programs or products (e.g., catalog entries). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the description include a textual description of the protocol, for the obvious advantage of enabling the user to conveniently acquire information about the protocol.

As per claim 54, Wood does not expressly disclose that the description includes an exemplary image obtainable through execution of the protocol, but Wood does disclose exemplary images obtainable via the diagnostic system, and presumably through execution of the protocol (column 7, lines 1-9; column 8, lines 5-13; column 9, line 67, through column 10, line 43). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention for the description to include an exemplary image obtainable through execution of the protocol, for the stated advantages of aid in making a diagnosis from images obtained by the diagnostic system, and training new diagnostic system users, and for the obvious advantage of demonstrating what the protocol can do.

As per claim 55, Wood does not expressly disclose selecting the protocol from a protocol menu displayed at the diagnostic system, but official notice is taken that menus for selecting items from are well known (see, for example, the Microsoft Press Computer Dictionary, pages 303-304). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include the step of selecting the protocol from a protocol menu displayed from a protocol menu displayed at the diagnostic system, for the obvious advantage of enabling users of the diagnostic system to conveniently select a desired protocols, by common, well-known means likely to be familiar to users.

As per claim 56, Wood does not expressly disclose that the selecting step includes actuation of a graphical button on an on-screen display, but official notice is taken that it is well known to make selections by actuating a graphical button on an on-

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screen display. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the selecting step include actuation of a graphical button on an on-screen display, for the obvious advantage of enabling users to select a protocol conveniently by common, well-known means likely to be familiar to users.

As per claim 57, Wood discloses an establishing a network link between the diagnostic system and a remote service facility (Figures 1 and 2; column 4, line 66, through column 4, line 38). Wood does not expressly disclose transferring a description of the protocol from the service facility to the diagnostic system for display, but official notice is taken that it is well known to transfer descriptions of products, programs, or files for display. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to transfer a description of the protocol from the service facility to the diagnostic system for display, for the obvious advantage of conveniently enabling a user to learn the features of the protocols before selecting an appropriate protocol.

### ***Allowable Subject Matter***

Claim 46-50 would be allowable upon filing of a valid Terminal disclaimer.

The following is a statement of reasons for the indication of allowable subject matter: the closest prior art of record, Wood et al. (U.S. Patent 5,891,035), discloses a system for providing operational protocols to a plurality medical diagnostic scanners, the system comprising: at least one storage device for storing data defining protocols; and

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communications circuitry for establishing network links to diagnostic systems. A messaging module for formulating messages containing data descriptive of protocols, and communication circuitry for transmitting such descriptive data are held to be obvious in view of Wood. Different modality diagnostic systems (such as the ultrasound systems disclosed by Wood, and also x-ray, magnetic resonance imaging, etc. systems) are known (and admitted prior art; see pages 1 and 2 of the instant application). However, neither Wood nor any other prior art of record discloses, teaches, or reasonably suggests establishing network links to first and second modality diagnostic systems, and transmitting data descriptive of a first modality protocol to the first modality diagnostic system, and data descriptive of a second modality protocol to the second modality diagnostic system.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dunham et al. (U.S. Patent 4,791,565) disclose an apparatus for controlling the use of computer software. Wolfe (U.S. Patent 4,796,220) discloses a method of controlling the copying of software. Hershey et al. (U.S. Patent 4,924,378) disclose a license management system and license storage key. Robert et al. (U.S. Patent 4,937,863) disclose a software licensing management system. Vesel et al. (U.S. Patent 4,993,025) disclose a high efficiency image transfer network. Johnson et al. (U.S. Patent 5,023,907) disclose a network license server. Corbin (U.S. Patent 5,138,712) discloses an apparatus and method for licensing software on a network of

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computers. Wyman (U.S. Patent 5,204,897) discloses a management interface for a license management system. Lassers (U.S. Patent 5,343,526) discloses a method for establishing licensor changeable limits on software usage. Hunter et al. (U.S. Patent 5,375,206) disclose a method for licensing software. Christiano (U.S. Patent 5,386,369) discloses a license metering system for software applications. Barber et al. (U.S. Patent 5,390,297) disclose a system for controlling the number of concurrent copies of a program in a network based on the number of available licenses. Wyman (U.S. Patent 5,438,508) discloses a license document interchange format for license management system. Davis (U.S. Patent 5,473,692) discloses a roving software license for a hardware agent. Richardson, III (U.S. Patent 5,490,216) discloses a system for software registration. Schull (U.S. Patent 5,509,070) discloses a method for encouraging the purchase of executable and non-executable software. Snyder (U.S. Patent 5,520,187) discloses an ultrasonic probe with a programmable multiplexer for imaging system with different channel counts. Ross et al. (U.S. Patent 5,553,143) disclose a method and apparatus for electronic licensing. Grantz et al. (U.S. Patent 5,564,038) disclose a method and apparatus for providing a trial period for a software license product using a data stamp and designated test period. Bains et al. (U.S. Patent 5,579,222) disclose a distributed license administration system. Plum (U.S. Patent 5,579,479) discloses a computer software licensing authentication method and apparatus. Chiang et al. (U.S. Patent 5,590,658) disclose a portable ultrasound imaging system. Pflugrath et al. (U.S. Patent 5,603,323) disclose a medical ultrasound diagnostic system with upgradeable transducer probes and other features. Damadian

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(U.S. Patent 5,606,970) discloses multiple patient scanning on a magnetic resonance imaging apparatus. Michel et al. (U.S. Patent 5,625,690) disclose a software pay per use system. Nagahama (U.S. Patent 5,636,277) discloses a system for licensing to use software products. Pinsky et al. (U.S. Patent 5,655,084) disclose a radiological image interpretation apparatus and method. Christiano (U.S. Patent 5,671,412) discloses a license management system for software applications. Tsujii (U.S. Patent 5,675,744) discloses a workstation for medical service. Wood et al. (U.S. Patent 5,715,823) disclose an ultrasonic diagnostic imaging system with universal access to diagnostic information and images. Chang et al. (U.S. Patent 5,724,425) disclose a method and apparatus for enhancing software security and distributing software. Hamadani et al. (U.S. Patent 5,742,757) disclose an automatic software license manager. Wyman (U.S. Patent 5,745,879) discloses a method and system for managing the execution of licensed programs. Fosdick (U.S. Patent 5,752,041) discloses a method and system for licensing program management within a distributed data processing system. Bereiter (U.S. Patent 5,754,763) discloses a software auditing mechanism for a distributed computer enterprise environment. Brandt et al. (U.S. Patent 5,758,068) disclose a method and apparatus for software license management. Olsen (U.S. Patent 5,758,069) discloses an electronic licensing system. Kazmierczak et al. (U.S. Patent 5,764,762) disclose an encrypted data package record for use in a remote transaction metered data system. Barnhill et al. (U.S. Patent 5,769,074) disclose computer assisted methods for diagnosing diseases. Grantz et al. (U.S. Patent 5,771,347) disclose an apparatus and method to allow a user a trial period before licensing a



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software program product. Ema et al. (U.S. Patent 5,779,634) disclose a medical information processing system for supporting diagnosis. Coley et al. (U.S. Patent 5,790,664) disclose an automated system for the management of licensed software. Higley (U.S. Patent 5,790,793) discloses a method and system to create, transmit, receive, and process information, including an address to further information. Daigle (U.S. Patent 5,795,297) discloses an ultrasonic diagnostic imaging system with personal computer architecture. Lita (U.S. Patent 5,796,941) discloses a method for supervising software execution in a license restricted environment. Akiyama et al. (U.S. Patent 5,805,699) disclose a software copying system. Weber (U.S. Patent 5,812,668) discloses a system and method for verifying the operation of a remote transaction clearance system. Wood et al. (U.S. Patent 5,851,186) disclose an ultrasonic diagnostic imaging system with universal access to diagnostic information and images. Chalek et al. (U.S. Patent 5,853,367) disclose a task-interface and communications system and method for ultrasound imager control. Frid et al. (U.S. Patent 5,857,967) disclose universally accessible healthcare devices with on the fly generation of HTML files. Lemelson et al. (U.S. Patent 5,878,746) disclose a computerized medical diagnostic system. Ginter et al. (U.S. Patent 5,910,987) disclose systems and methods for secure transaction management and electronic rights protection. Swenson et al. (U.S. Patent 5,961,448) disclose a virtual medical instrument for performing medical diagnostic testing on patients. Clarke et al. (U.S. Patent 5,982,917) disclose a computer-assisted method and apparatus for displaying x-ray images. Argiro et al. (U.S. Patent 5,986,662) disclose an advanced diagnostic viewer employing automated

protocol selection for volume-rendered imaging. Engelmann et al. (U.S. Patent 5,987,345) disclose a method and system for displaying medical images. Vara et al. (U.S. Patent 6,063,030) disclose a PC-based ultrasound device with virtual control user interface. Smith et al. (U.S. Patent 6,188,407) disclose a reconfigurable user interface for a modular patient monitor. Chang et al. (U.S. Patent 6,195,409) disclose an automatic scan prescription for tomographic imaging. Koritzinsky et al. (U.S. Patent 6,272,469) disclose an imaging system protocol handling method and apparatus (parent case). Babula et al. (U.S. Patent 6,381,557) disclose a medical imaging system service evaluation method and apparatus (related case). Sadkhin (U.S. Patent 6,425,860) discloses a therapeutic and diagnostic method and apparatus. Derzay et al. (U.S. Patent 6,434,572) disclose a medical diagnostic system management method (related case). Ellis et al. (U.S. Patent 6,442,290) disclose a method and apparatus for processing partial lines of scanned images and communicating associated data over a network.

Dunham et al. (EP 0 165 789 B1) disclose a device for protecting computer software. Robert et al. (EP 0 332 304 B1) disclose a software licensing management system. Enescu et al. (EP 0 384 610 B1) disclose a tamper resistant access authorizing method. Lassers (EP 0 597 599 A2) discloses a method for establishing licensor changeable limits on software usage. Archer (EP 0 613 073 A1) discloses a license management mechanism for a computer system. Chang (EP 0 686 906 A2) discloses a method and apparatus for enhancing software security and distributing software. Hasebe et al. (EP 0 766 165 A2) disclose a licensee notification system.

Poggio et al. (EP 0 809 221 A2) disclose a virtual vending system and method for managing the distribution, licensing, and rental of electronic data. Barritz et al. (EP 0 852 349 A2) disclose a software license verification process and apparatus. Hemphill et al. (EP 0 854 418 A2) disclose a speech recognition interface (note page 5 for possible pertinence to applicant's disclosure).

Shimotori (Japanese Published Patent Application 7-200492) discloses a software rights management system. Kubota (Japanese Published Patent Application 8-76994) discloses a method and device for management of a software license. Hasebe et al. (Japanese Published Patent Application 9-69044) disclose a licensee information system. Indo (Japanese Published Patent Application 10-40098) discloses a software management system. Fujii (Japanese Published Patent Application) 10-320536) discloses an information storage and transmission system (see also English abstract).

Wyman (WO 92/20021) discloses a license management system. McWilliams (WO 95/32573) discloses a file transfer mechanism. Mahmoodi (WO 96/16380) discloses a system and method for adaptive interpolation of image data.

Spri råd (guideline or advice) 6.20 discloses instructions for medico-technical equipment. Kinosada et al. ("Application Platform Designed for Computer Assisted Functional Image Analysis" [Abstract]) disclose computerized image analysis. "ATM Medical Trial Launched in Dallas" discloses transmitting medical images over a network. Li et al. ("A World Wide Web Telemedicine System" [Abstract]) discloses a teleradiology and telemedicine system. Parker ("Come back, MMCD, We Hardly Knew Ye")

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discloses a disk-based manual for medical equipment. Komo et al. ("Home Teleradiology System" [Abstract]) discloses a system for transmitting medical images. The Microsoft Press Computer Dictionary (pages 303-304) discloses menus on computers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 703-305-0753. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and for After Final communications. Non-official/draft communications can be faxed to the examiner at 703-746-5574.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

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